THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.4018 OF 2006

Dated: 02-03-2006

Between

S. Nagaratnam,

W/o. S. Guravaiah,

R/o. D.No.5/79-1,

Mutrasupalli Village,

Sankarapuram Post,

Kadapa City & District.

...PETITIONER

AND

The Municipal Corporation

of Cuddapah, rep. by its

Commissioner, Cuddapah,

Cuddapah District and others.

...RESPONDENTS

ORDER:

This writ petition is filed seeking a Writ of Mandamus to declare the action of the respondents in seeking to demolish the commercial complex consisting of shop rooms in Ground, 1st & 2nd Floors situated on the northern side of Madras Road presently with

D.Nos.2/1105, 2/1106, 2/1111, 2/1112, 2/1113 and 2/1114 falls in Madras Road, Annamacharya Circle to By-pass Junction, Kadapa City & District belonging to the petitioner as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner is the owner of aforementioned premises, as the same was bequeathed in her favour by her father through Will dated 25.01.1993 and since then she has been in possession and enjoyment of the said building in the Cuddapah town and municipality. The Cuddapah municipality has been recently upgraded as Municipal Corporation. In view of the traffic congestion and to have free flow of traffic the Cuddapah Municipal Corporation has decided to widen the roads, for which they have identified certain roads in the entire Cuddapah municipal corporation. Learned counsel for the petitioner further submits that the petitioner is not at all against the road-widening programme of the respondents and she has no objection for the said programme if her lands are acquired and if proper compensation is paid.

The only grievance of the petitioner is that the respondents without issuing any notices, without paying any compensation for her structures or the lands and without following due process of law,
are threatening the to demolish the existing structures for the purpose of road-widening.

The learned counsel for the petitioner further submits that the action of respondents without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Municipal Corporation Act (for short 'the Act').

This Court disposed of number of writ petitions directing the respondents not to demolish the houses of the private citizens without following due process of law.

Having regard to the facts and circumstances of the case,
this writ petition is disposed of directing the respondents not to demolish the structures or take away any portion of the properties of the petitioner and not to dispossess her without

following due process of law either under Section 146 or 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894.

_____

V. ESWARAIAH, J

March 2, 2006

DSK